

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

RAMON ARAGON, *et al.*,

Defendants.

69cv07941 BB-ACE

RIO CHAMA STREAM SYSTEM
Section 3: Rio Canjilon Creek

Subfile No. CHCJ-002-0024

MOTION TO VACATE CONSENT ORDER
IN SUBFILE CHCJ-002-0024 AND FOR LEAVE
TO FILE NEW CONSENT ORDER

COMES NOW the Plaintiff, State of New Mexico, *ex rel.* State Engineer, and moves the Court to issue its order vacating the Consent Order filed January 18, 2001, (Docket No. 6130) between Plaintiff State of New Mexico and Defendants ELIZA J. and LEO JARAMILLO in subfile CHCJ-002-0024, and granting leave for the State and Defendants to file a new Consent Order concerning the Defendants' right to use the public waters of the Rio Chama Stream System. As grounds therefore the Plaintiff states:

1. The State and Defendants Eliza J. and Leo Jaramillo signed and approved a Consent Order concerning Defendants' water rights under Subfile CHCJ-002-0024 based upon a boundary surrounding Defendants' land determined during preparation of the State's Hydrographic Survey for the Canjilon Creek subsection of the Rio Chama Stream System. Jerry and Mary Castillo recently provided a warranty deed to the hydrographic survey staff that was filed in the Rio Arriba county clerk's office on April 1, 1993. That deed establishes the Defendants Jaramillo own 0.2 acres that was originally included as the eastern edge of the Castillos' land under subfile CHCJ-002-0025. There

is no dispute between the Defendants and the Castillos concerning the Jaramillos' ownership of the land described in the deed. As a result of this current information, the State's maps were corrected to show that the Defendants Jaramillo own the land under subfile CHCJ-002-0024. The Castillos' property is now correctly mapped under subfile CHCJ-002-0025.

2. Counsel for the State has contacted the Defendants concerning the substance of this motion, and Defendants do not oppose vacating the Consent Order filed January 18, 2001, and the entry of a new Consent Order based upon the correct mapping of Defendants' property.

WHEREFORE, the Plaintiff State of New Mexico requests the Court to enter its order vacating the Consent Order filed January 18, 2001, (Docket No. 6130) and granting leave for the State and Defendants to file a new Consent Order concerning the Defendant's right to use the public waters of the Rio Chama Stream System.

Respectfully submitted,

/s/ Lida D. Brown

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CERTIFICATE OF SERVICE

I hereby certify that copies of the above motion were mailed to the following persons on January 7, 2005.

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